



PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : J. PATTERSON Group Art Unit : 2831
Serial No. : 09/881,536 Examiner : J. Lee
Filed : June 14, 2001
For : CONNECTIONLESS DATA LINK ASSEMBLY
Attorney Docket No. : 65856-0032

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Date: <u>1-15-2003</u>	Signature <u>Julie A. Barber</u> Julie A. Barber

REQUEST FOR RECONSIDERATION

Dear Sir:

This is a response to the final Office Action dated November 15, 2002, (Paper No. 7). Claims 1-16 are currently pending, with Claims 1-12 provisionally elected in response to the prior restriction requirement. Non-elected Claims 13-16 will be cancelled upon allowance of the elected claims. Favorable reconsideration is respectfully requested in light of the following Remarks.

1. The Office Action rejects Claims 1-3, 6-9 and 12 under 35 U.S.C. §103(a) over the conventional art as described in the Applicant's specification and

Applicant's prior art Figure 2. The rejection is respectfully traversed.

Independent Claims 1 and 7 specify, *inter alia*, a pre-assembled data link assembly that includes a trunk portion having first and second ends, an engine shunt portion and a transmission shunt portion spliced into the trunk portion to form the pre-assembly data link assembly.

Applicant agrees with Paragraph 2 of the Office action that there is no mention in the prior art of a pre-assembled data link assembly. In fact, the conventional art, as discussed in the specification and depicted in Fig. 2, is of a modular design, comprising multiple "building block" pieces that must be interconnected in order to establish a data link between two or more components of a vehicle.

However, several problems exist with this conventional modular design. First, the conventional data link results in increased commercial cost. Specifically, as the conventional data link must be custom assembled for every combination of chassis, engine and auto-mechanical transmission, the manufacturer is required to maintain a large inventory of every type of "building block" piece to assure a data link can be constructed. Yet maintaining a large inventory of parts is costly and can lead to a significant portion of a company's equity inefficiently "tied up" in inventory.

In addition, the conventional modular design data link is much more susceptible to improper installation and damage due to human error. As a result of the significant number of pieces that must be linked together, a significantly greater number of steps must be taken to install a conventional data link compared to Applicant's invention. However, with each additional step comes the possibility that an installer makes an improper connection or omits or installs a wrong part. Subsequently, there is a significantly greater chance that the conventional modular data link will function improperly or be damaged.

In contrast to the conventional data link, Applicant's invention offers significant commercial advantages over modular-based systems. For example, by providing a pre-assembled data link that includes a "trunk portion having first and second ends" that functions as the back bone of the system, far fewer parts need to be connected together in order to establish a data link between two or more vehicle components. This reduces the number of parts a manufacturer must maintain in

inventory, thereby freeing up equity that can be applied to more productive uses. As fewer connections must be made, the chances of human error entering into the installation process are also reduced, resulting in more efficient manufacturing and a more reliable end product. *See Paragraphs 6 and 7.*

It is well-settled law that in determining obviousness, one must (1) determine the scope and content of the prior art; (2) ascertain the differences between the prior art and the claimed invention; and (3) resolve the level of ordinary skill in the pertinent art. Secondary considerations such as commercial success or commercial advantages, long felt but unsolved need, and failure of others are also considered.¹ In view of its significant commercial advantages, Applicant's pre-assembled data link is patentable over the conventional art.

Furthermore, obviousness cannot be established by combining the teaching of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under 35 U.S.C. §103, teachings of references can be combined only if there is some suggestion or incentive to do so.² It is respectfully submitted that the prior art of record fails to provide any such suggestion or incentive.

In addition, the Office action asserts that splicing is a method of connection and will not be addressed in the structural limitation of the invention. Applicant disagrees with this assertion.

As shown in Figure 3, the splicing of the engine shunt portion and the transmission shunt portion into the trunk portion structurally alters the data link assembly from that of the conventional data link assembly shown in Figure 2. Upon casual observation of Figures 2 and 3, one notices that the "T" connectors 66 of Figure 2 are eliminated by the spliced connections of Figure 3. Further, the backbone connectors 62 used by the "T" connectors 66 are also eliminated in the invention. As a result, the pre-assembled data link assembly of the invention is structurally different from the conventional data link assembly shown in Figure 3, contrary to the Office action.

For at least this reason, Claim 1 and 7 are allowable over the applied art.

¹ Graham v. John Deere Co., 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966).

² ACS Hosp. Sys., Inc. v. Montefiore Hosp., 221 USPQ 929, 932, 933 (Fed. Cir. 1984).

Claims 2, 3 and 6, which depend from Claim 1, and Claims 8, 9 and 12, which depend from Claim 7, are likewise allowable over the applied art. Withdrawal of the rejection is respectfully requested.

With respect to Claims 2 and 8, Applicant strongly disagrees with the Official Notice taken by the Examiner. Thus, Applicant hereby seasonably challenges the Official Notice taken by the Examiner and in accordance with 37 CFR 1.104(d)(2) and MPEP §2144.03. Therefore, the Examiner is required to produce documentary proof as evidence of the Official Notice in response to this communication. In the event that the Examiner does not produce documentary proof, it is respectfully requested that the rejection be withdrawn.

With respect to Claims 3 and 9, Applicant agrees with the Office action that there is no mention in the applied art of first and second termination resistors housed in a barrel mold. However, Applicant disagrees with the assertion in the Office action that it would have been an obvious matter of design choice to use the first and second termination resistors of the invention. To the contrary, the use of the first and second termination resistors housed in a barrel mold provides an advantage over the applied art because a proper number of the termination resistors are spliced into the pre-assembled data link assembly of the invention at the proper location. On the other hand, conventional assemblies still require the correct number of termination resistors to be determined by the technician and manual connection of the termination resistors, which is prone to human error. The Examiner is encouraged to review *Paragraphs 26 and 27 of the specification* and withdraw the rejection.

With respect to Claims 4, 6 and 12, it should be noted that the splicing of the engine shunt portion, the transmission shunt portion and the anti-lock brake system shunt portion is accomplished by way of a double wall shrink tube 78, as shown in Figure 3. Because there is no mention in the applied art of splicing the engine shunt portion, transmission shunt portion and the anti-lock brake system shunt portion, the Office action fails to establish a *prima facie* case of obviousness. *See MPEP §2143*. For at least this additional reason, Claims 4, 6 and 12 are allowable over the applied art, taken singly or in combination. Withdrawal of the rejection is respectfully requested.

2. The Office Action rejects Claims 4, 5, 10 and 11 under 35 U.S.C. §103(a) over the conventional art as described in the Applicant's specification and Applicant's prior art Figure 2 in view of U.S. Patent No. 6,257,923 to Stone et al. ("Stone") and U.S. Patent No. 4,929,477 to Will ("Will"). The rejection is respectfully traversed.

Claims 4 and 5 depend from Claim 1, and Claims 10 and 11 depend from Claim 7. Stone and Will do not disclose, teach or suggest at least the feature of a pre-assembled data link assembly that includes a trunk portion having first and second ends, an engine shunt portion and a transmission shunt portion that splice into the trunk portion to form the pre-assembly data link assembly, as recited in Claims 1 and 7. By contrast, it appears that Stone and Will teach shrink tubing. Thus, Stone and Will add nothing to overcome the deficiencies of the conventional art in the Applicant's specification and Applicant's prior art Figure 2, as described above in Section II.1.

For at least this reason, Claims 4, 5, 10 and 11 are allowable over the applied art, taken singly or in combination. Withdrawal of the rejection is respectfully requested.

III. Conclusion

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance of the application is earnestly solicited.

Should Examiner Lee believe anything further would be desirable in order to place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

Any fees associated with the filing of this paper should be identified in an accompanying transmittal. However, if any additional fees are required in connection with the filing of this paper, permission is given to charge Account No. 18-0013 in the name of Rader, Fishman & Grauer PLLC.

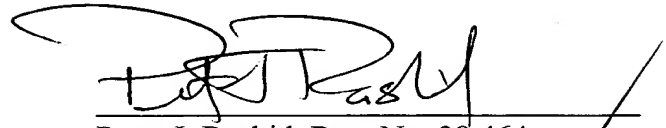
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Respectfully submitted,

Dated: 1/15/03

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A handwritten signature in black ink, appearing to read "P. J. Rashid", written over a horizontal line.

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